

By: Rodriguez

S.B. No. 459

A BILL TO BE ENTITLED

AN ACT

relating to the sale, storage, transportation, and disposal of scrap or used tires; providing a civil penalty; creating an offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 6, Business & Commerce Code, is amended by adding Chapter 205 to read as follows:

CHAPTER 205. SALE AND TRANSPORTATION OF SCRAP OR USED TIRES

Sec. 205.001. DEFINITIONS. In this chapter, "scrap tire" and "used tire" have the meanings assigned to those terms by Section 361.1121, Health and Safety Code.

Sec. 205.002. RETENTION AND DISPOSAL OF SCRAP OR USED TIRES. (a) Except as provided by Subsection (c), a retail seller shall prohibit a customer from retaining a scrap tire or used tire removed from the customer's vehicle during the purchase of a tire.

(b) A retail seller who takes possession of a scrap tire from a customer during a transaction described by Subsection (a) shall dispose of the scrap tire according to local and state laws, including Section 361.112(c), Health and Safety Code.

(c) A retail seller is not required to prohibit a customer from retaining a scrap tire or used tire removed from the customer's vehicle during the purchase of a tire if the customer certifies on a form prescribed by the Texas Commission on Environmental Quality that:

1           (1) the tire will be used in the customer's  
2 agricultural business; and

3           (2) the customer assumes liability for the tire.

4           (d) The Texas Commission on Environmental Quality shall  
5 develop the form described by Subsection (c) and shall make that  
6 form available on the commission's Internet website.

7           Sec. 205.003. TRANSPORTATION OF SCRAP OR USED TIRES. A  
8 retail seller of tires shall contract for the transportation of  
9 scrap tires or used tires only with a scrap tire transporter or used  
10 tire transporter who:

11           (1) is registered as described by Section 361.1121(b),  
12 Health and Safety Code; and

13           (2) has filed a surety bond according to Section  
14 361.1121(c), Health and Safety Code.

15           Sec. 205.004. CIVIL PENALTY. (a) A person who violates  
16 this chapter is subject to a civil penalty in an amount not less  
17 than \$500 for each violation. A separate penalty may be imposed for  
18 each day a violation occurs.

19           (b) The attorney general or the appropriate district or  
20 county attorney may bring an action against a person under this  
21 section in the name of the state in a district court in the county in  
22 which:

23           (1) the person resides; or

24           (2) the person's principal place of business is  
25 located.

26           SECTION 2. The heading to Section 361.112, Health and  
27 Safety Code, is amended to read as follows:

1       Sec. 361.112. STORAGE [~~TRANSPORTATION~~] AND DISPOSAL OF  
2 USED OR SCRAP TIRES.

3       SECTION 3. Section 361.112, Health and Safety Code, is  
4 amended by adding Subsection (n) to read as follows:

5       (n) A scrap tire or used tire generator, including a tire  
6 dealer, junkyard, or fleet operator, who stores scrap tires or used  
7 tires outdoors on its business premises shall store the scrap tires  
8 or used tires in a fully enclosed area or container that must be  
9 made secure by locking.

10       SECTION 4. Subchapter C, Chapter 361, Health and Safety  
11 Code, is amended by adding Section 361.1121 to read as follows:

12       Sec. 361.1121. SCRAP AND USED TIRE TRANSPORTERS. (a) In  
13 this section:

14               (1) "Scrap tire" means a tire that can no longer be  
15 used for its original intended purpose.

16               (2) "Scrap tire transporter" means a person who  
17 collects scrap tires from another person for the purpose of removal  
18 to a scrap tire processor, end user, or disposal facility.

19               (3) "Used tire" means a tire that:

20                       (A) has been used as a tire on a vehicle;

21                       (B) has tire tread at least one-sixteenth inch  
22 deep; and

23                       (C) can still be used for its original intended  
24 purpose.

25               (4) "Used tire transporter" means a person who  
26 collects used tires from another person for the purpose of removal  
27 to a scrap tire processor, end user, or disposal facility.

1       (b) A scrap tire transporter or used tire transporter shall  
2 register with the commission unless the scrap tire transporter or  
3 used tire transporter is:

4               (1) a retreader who transports retreadable casings; or  
5               (2) a person who transports scrap tires or used tires  
6 that are intended for use in that person's agricultural business  
7 and who does not transport at one time a number of scrap tires or  
8 used tires that exceeds a number determined by commission rule.

9       (c) A scrap tire transporter or used tire transporter who is  
10 required to register with the commission shall file with the  
11 commission a bond issued by a surety company authorized to transact  
12 business in this state. The principal amount of the bond must equal  
13 at least \$100,000. The bond must be payable to the state and  
14 conditioned on compliance with this section and any rules adopted  
15 under this section.

16       (d) The commission shall require a scrap tire transporter or  
17 used tire transporter to maintain records and use a manifest or  
18 other appropriate system to assure that those tires are transported  
19 to a storage site that is registered or to a disposal facility that  
20 is permitted under Section 361.112 for that purpose.

21       SECTION 5. Section 547.201, Transportation Code, is amended  
22 by adding Subsections (c), (d), and (e) to read as follows:

23       (c) A person may not sell at retail an unsafe tire. In this  
24 subsection, "unsafe tire" means a passenger or light truck tire  
25 that:

26               (1) has tire tread less than one-sixteenth inch deep;  
27               (2) has chunking, bumps, knots, or bulges evidencing

1 cord, ply, or tread separation from the casing or other adjacent  
2 material;

3 (3) has exposed tire cords or belting material as a  
4 result of damage to the tire;

5 (4) has a repair to the tire in the tread shoulder,  
6 sidewall, bead area, or belt edge area;

7 (5) has a puncture that has not been sealed or patched  
8 on the inside with a cured rubber stem or plug that extends through  
9 to the outside surface;

10 (6) does not clearly show the United States Department  
11 of Transportation tire identification number located on the  
12 sidewall of the tire;

13 (7) is subject to a manufacturer's safety recall;

14 (8) has a puncture larger than one-quarter inch; or

15 (9) does not otherwise meet department safety  
16 standards under Section 547.101.

17 (d) Subsection (c) does not apply to a mounted tire sold  
18 with a used vehicle.

19 (e) A person who violates Subsection (c) commits an offense.  
20 An offense under this subsection is a Class A misdemeanor.

21 SECTION 6. Section 7.303(a), Water Code, is amended to read  
22 as follows:

23 (a) This section applies to a license, certificate, or  
24 registration issued:

25 (1) by the commission under:

26 (A) Section 26.0301;

27 (B) Chapter 37;

1 (C) Section 361.0861, 361.092, [~~or~~] 361.112, or  
2 361.1121, Health and Safety Code;

3 (D) Chapter 366, 371, or 401, Health and Safety  
4 Code; or

5 (E) Chapter 1903, Occupations Code;

6 (2) by a county under Subchapter E, Chapter 361,  
7 Health and Safety Code; or

8 (3) under a rule adopted under any of those  
9 provisions.

10 SECTION 7. Section 361.112(g), Health and Safety Code, is  
11 repealed.

12 SECTION 8. This Act takes effect September 1, 2013.